

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FACILITY GATEWAY CORPORATION,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 11- 85 ERIE
)	
INFINITE POWER & ENERGY, LLC and)	JUDGE MAUREEN P. KELLY
SHAWN VAUGHT,)	
Defendants)	ELECTRONICALLY FILED

**PLAINTIFF FACILITY GATEWAY CORPORATION'S
NOTICE OF DISMISSAL AND RESPONSE TO ORDER TO
SHOW CAUSE**

Plaintiff Facility Gateway Corporation, by its attorneys, MacDonald, Illig, Jones & Britton LLP, files this Response to Order to Show Cause dated December 16, 2015:

1. On April 8, 2011, plaintiff Facility Gateway Corporation ("FGC") filed a Complaint against defendants Infinite Power & Energy, LLC ("IPE") and Shawn Vaught, seeking to recover under breach-of-contract and fraud theories.

2. The proceedings were stayed as a result of Mr. Vaught's being indicted for wire fraud and money laundering in connection with the transactions that form the basis of the FGC's Complaint. (A true and correct copy of the criminal docket for case #: 1:11-cr-00067-DSC-1 is attached hereto as Exhibit A).

3. Mr. Vaught ultimately pleaded guilty and was sentenced to incarceration for a period of 100 months and ordered to pay restitution to FGC in the amount of \$334,131.00. (Exhibit A).

4. On December 16, 2015, this Honorable Court entered an Order to Show Cause, requesting that FGC provide an update regarding the status of Mr. Vaught's related criminal case.

5. With Mr. Vaught's current incarceration and with a criminal restitution order entered in its favor, FGC desires to dismiss the pending civil action against IPE and Mr. Vaught.

6. Defendants have not filed an answer or a motion for summary judgment in response to FCG's Complaint.

7. Rule 41 of the Federal Rules of Civil Procedure authorizes a plaintiff to dismiss an action without leave of court by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. . . ." F.R.C.P. 41(a)(1)(A)(i).

WHEREFORE, plaintiff Facility Gateway Corporation respectfully requests that the above-captioned action be dismissed.

Respectfully submitted,

It is so ordered.

Magistrate Judge
Susan Paradise
Baxter

Digitally signed by Magistrate Judge Susan
Paradise Baxter
DN: cn=Magistrate Judge Susan Paradise
Baxter, o=pw, email=Judge_Susan_Baxter@pawd.uscourts.
gov, c=US
Date: 2016.01.08 14:55:33 -05'00'

s/Matthew W. Fuchs

Matthew W. Fuchs

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Attorneys for Plaintiff

Facility Gateway Corporation

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2016, the foregoing Notice of Dismissal and Response to Order to Show Cause was filed electronically with the Clerk of Court, using the Court's electronic case filing system.

I also hereby certify that a copy of the foregoing Notice of Dismissal and Response to Order to Show Cause was served upon defendants Infinite Power & Energy, LLC and Shawn Vaught, via First-Class United States Mail addressed as follows, this 6th day of January, 2016:

Shawn Vaught
6911 Water Street
Fairview, PA 16415

Infinite Power & Energy, LLC
c/o Shawn Vaught
6911 Water Street
Fairview, PA 16415